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Dec. 10

Mr. Robert J. Jewell, Secretary
Employees' Retirement System
State House Annex

Dear Mr. Jewell:

With reference to my letter of October 29, 1953 regarding full base rate of compensation for trade employees at the State Hospital whose regular work week is 44 hours, I would like to withdraw my opinion as therein stated.

It has come to my attention that this office has previously ruled in connection with another matter, that the base rate of compensation for this type of employee is 40 hours and that the additional 4 hours are overtime. In view of this opinion, cumulative compensation under the Retirement Act, which is based on base rate compensation, would be that earned on a 40 hour work week. This would have to be so in view of the language contained in paragraph 1 (a) of section 13, chapter 27-A of the Revised Laws as inserted by chapter 100, Laws of 1945 which uses the phrase "prospective compensation example". This term could not include the additional 4 hours worked each week which have been ruled to be overtime. This is especially so in view of the requirement that this type of employee work only 40 hours where possible upon the employment of additional help.

Very truly yours,

Richard C. Duncan
Assistant Attorney General

RCD:EM